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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,659	11/13/2003	Francis Bourrieres	N48.2I-11373-US01	2594
499 7590 03/25/2008 VIDAS, ARRETT & STEINKRAUS, P.A. SUITE 400, 6640 SHADY OAK ROAD EDEN PRAIRIE, MN 55344				
EXAMINER				
JOHNS, CHRISTOPHER C				
ART UNIT		PAPER NUMBER		
3621				
MAIL DATE		DELIVERY MODE		
03/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/712,659

## Applicant(s)

BOURRIERES ET AL.

## Examiner

Christopher C. Johns

## Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Acknowledgements***

1. Examiner thanks attorney for applicants for the Amendment to the Non-Final Office Action of 15 October 2007, which was received on 11 January 2008.
2. Claims 1-5 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over United Kingdom Patent 2,304,077 (hereafter "Farrall"), in view of US Patent 5,657,389 A (hereafter "Houvener").
5. As per claim 1, Farrall discloses:
6. a unique identifier physically integrated in the medium comprising a number (page 2, paragraph 6 – "relies on a signature set derived from a totally random feature – the presence of shiny metallic particles randomly distributed in three dimensions throughout the very fabric of the device which is conveniently illustrated in the form of a card");
7. identifier constitutes an unforgeable link (page 3, paragraph 2 – "Anyone attempting to duplicate a card made by the Crystal Chip process faces the problem of

duplicating the exact individual distribution – and orientation – of possibly hundreds of minute metal fragments”) between the number and information stored under the same number in a database (page 9, paragraph 1 – “purpose of this system is the identify the card offered and to compare its Crystal signature with the card holder details held on file”);

8. stored information comprises at least one presentation of the identifier comprising an image signature and/or a digital signature of the unique identifier (page 9, paragraph 1 – “purpose of this system is the identify the card offered and to compare its Crystal signature with the card holder details held on file”); and

9. a call is made to the database, the stored signature is re-transmitted to a terminal monitor and/or a printer on which the image appears, an operator makes a comparison between the identifier located on the medium and its signature displayed on the terminal and/or on the receipt of the printer.

10. Farrall does not explicitly disclose using the database to transmit the stored signature to a terminal, where the operator makes a comparison between the stored information and the information presented on the card.

11. Houvener discloses a system for “positive identification” where a terminal operator would be able to determine whether the information presented is valid for the user – see figure 1, reference numbers 2, 6, 6’; column 6, lines 49-50: “display the information on display means”; column 7, lines 12-20. The operator must “visually compare the image displayed on the display means with the...signature of the person presenting the credit card at the point of verification” (column 6, lines 60-65). It

performs this to positively identify identities of users holding cards, to prevent fraud and misuse of financial information and resources.

12. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention in Farrall with the operator-approved method in Houvener, because it would provide for another method of verifying the user to be who he claims to be).

13. As per claims 2-4, Farrall discloses: number recorded on the medium by means of a magnetic strip or tape, number recorded in the medium by means of a linear bar code or two-dimensional code, number recorded on the medium by means of an electronic chip or radio frequency chip (all inherent in credit cards and/or smart cards, which are inherently in use in the system in Farrall).

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farrall, in view of Houvener, further in view of United Kingdom Patent 2,324,065 (hereafter "Slater").

15. As per claim 5, Farrall discloses: unique identifier constituting the unforgeable link between the number is a volume-based identifier in which are contained bubbles of random size, shape, and arrangement.

16. Neither Farrall, Houvener, or Farrall and Houvener explicitly disclose using a volume-based identifier with bubbles of random size, shape, and arrangement.

17. Slater discloses using bubbles (page 2, lines 26-29) to act as an identification label, to uniquely mark "banknotes or credit cards" (Abstract title). It teaches that this system is useful for preventing "counterfeiting to provide objects such as banknotes or credit notes with parts which are difficult to reproduce" (page 1, lines 17-19).

18. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the system of identifying bubbles in Slater with the system in Farrall, because Slater teaches using the bubbles as an identification device which is difficult (if not impossible) to reproduce, much as the identification is used and constructed in Farrall and Houvener. The bubbles would be an obvious replacement for the identifiers discussed in Farrall and Houvener because of their similar uses and likelihood of being reproduced).

### ***Response to Arguments***

19. Applicants' arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

20. Applicants' amendment filed January 11, 2008 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

21. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Christopher C. Johns whose telephone number is (571)270-3462. The Examiner can normally be reached on Monday - Friday, 9 am to 5 pm.

23. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher C Johns  
Examiner  
Art Unit 3621

CCJ

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621